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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,280	08/20/2003	Howard Sinkoff	7647-03468	7474

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KEVIN P. CROSBY
BRINKLEY MCNERNEY MORGAN SOLOMAN & TATUM LLP
200 E. LAS OLAS BLVD, SUITE 1900
FORT LAUDERDALE, FL 33301

EXAMINER

MARSH, STEVEN M

ART UNIT PAPER NUMBER

3632

DATE MAILED: 10/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/644,280

Applicant(s)

SINKOFF, HOWARD

Examiner

Steven M Marsh

Art Unit

3632



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18, 22 and 23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 19-21 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8202003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is the first office action for U.S. Application 10/644,280 for Novel Cable Tray Assemblies filed by Howard Sinkoff on August 20, 2003.

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-18, 22, and 23, drawn to a cable tray, classified in class 248, subclass 58.
- II. Claims 19-21, drawn to a method for surface treating a cable tray, classified in class 29, subclass 887.

Inventions, Group 1 and Group 2 are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the cable tray claimed in Group I can be made without the surface treatment method of Group II.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Dan Crilly on September 30, 2004 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-18, 22, and 23. Affirmation of this election must be made by applicant in

replying to this Office action. Claims 19-21 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5, 6, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 2,823,056 to Di Meo et al. Di Meo discloses a cable support assembly (20) with a first end and a second end. There is a connector-receiving member (25b and 27b) integrally connected to exterior of the cable support assembly and a connector-receiving element (24b and 26b) integrally connected to the first end of the cable support assembly. The connector-receiving element is adapted to be placed in registry with the corresponding connector-receiving member from an adjacent tray so that a fastener (28... could also be an anti-friction roller rotatable attached to the tray) may be placed therein. The tray includes a sidewall (one of 23 and the vertical portion under it) and a weight-bearing assembly (the other of 23 and the vertical portion under it), wherein the connector receiving element is fixedly attached to the weight bearing assembly of the cable tray, and the at least one connector receiving member is fixedly attached to at least on sidewall of the cable tray.

Claims 1 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 6,247,871 to Nickel et al. Nickel et al. discloses a cable support assembly (1... see fig. 13) having a first end and a second end. There is a connector-receiving member (2) integrally connected to the support assembly and a connector-receiving element (7) integrally connected to the first end of the cable support assembly. The connector-receiving element is adapted to be placed in registry with the corresponding connector-receiving member from an adjacent tray so that a fastener may be placed therein. The connector receiving element is an elongated ellipse with at least two generally parallel straight sections, each having a first end and a second end connected on at least the first end to a closed member.

Claims 22 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 4,236,688 to Wilk. Wilk discloses a connector that comprises an elongated ellipse (the shape of fig. 4 is not an ellipse, but Applicant's connector is not an ellipse either, because one end is open) with two approximately parallel straight members (42A and 42B) with a first end and a second end connected to a curved member (41), and having at least one J-shaped hook (44B)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Di Meo. Di Meo discloses a fastener (28), but does not disclose the fastener as electrically conductive. However, metal fastening pins are well in the art and it would have been obvious to one of ordinary skill in the art at the time of the present invention to have made the pin taught by Di Meo out of a metal.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Di Meo in view of U.S. Patent 6,143,984 to Auteri. Di Meo does not disclose a fastener comprising a carriage bolt and a nut. Auteri discloses carriage bolts (F) and nuts (N) as a fastener means for securely connecting separate components (20, 14, and 16). It would have been obvious to one of ordinary in the art at the time of the present invention to have utilized a carriage bolt and nut as the fastener for the cable support taught by Di Meo, as taught by Auteri, for the purpose of providing a fastener that can be securely fastened to the cable support.

Claims 4, 10, 11, and 13-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Di Meo in view of U.S. Patent 6,061,884 to Ohms et al. Di Meo discloses a cable support assembly with at least one interior angle, wherein the shape allows for a plurality of cable trays at angles other than 180 degrees (see fig. 1). The assembly has a pre-formed shape in the form of an L-shape (in the middle of the assembly), a T-shape (also in the middle of the assembly), and a cruciform shape (also in the middle of the assembly of fig. 1). The pre-formed shape is rounded and a first end has a different width than a second end (as the trays converge to the middle, the connecting portion is wider). The tray disclosed by Di Meo does not have longitudinal

Art Unit: 3632

wires interconnected with a plurality of transverse wires. Ohms discloses a cable tray with longitudinal wires interconnected with a plurality of transverse wires. It would have been obvious to one of ordinary skill in the art at the time of the present invention to have utilized a tray arrangement with a plurality of longitudinal wires interconnected with transverse wires, in place of the tray taught by Di Meo, as taught by Ohms et al., for the purpose of providing an easy to manufacture tray.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nickel et al. Nickel et al. discloses a connector-receiving element with hooks, but the hooks are not J-shaped. However, the specific shape is a matter of design preference that would have been obvious to one of ordinary skill in the art at the time of the present invention (by providing a slight curve in one of the hooks).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 4,505,621 to Hilfiker et al.

U.S. Patent 3,042,351 to Du Bois

U.S. Patent 4,232,845 to Turner

U.S. Patent 6,590,154 B1 to Badey et al.

U.S. Patent 5,384,937 to Simon

U.S. Patent 6,637,704 B2 to Jette

U.S. Patent 6,460,812 B1 to Jette

Art Unit: 3632

U.S. Patent 6,498,296 B2 to Benito-Navazo

The above patents disclose cable support assemblies.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Marsh whose telephone number is (703) 305-0098. The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30 PM. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.



Steven M. Marsh

September 30, 2004



LESLIE A. BRAUN
SUPERVISORY PATENT EXAMINER